

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-2666

United States of America,

Appellee,

v.

James L. Manzer; Beverly J. Manzer,

Appellants.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: November 28, 2003

Filed: January 16, 2004

Before BYE, BOWMAN, and MELLOY, Circuit Judges.

PER CURIAM.

James and Beverly Manzer appeal the District Court's¹ order approving an Internal Revenue Service (IRS) levy upon the Manzers' principal residence. Having carefully reviewed the record and the parties' submissions on appeal, we affirm.

In January 2003 the government petitioned the District Court for approval of a proposed IRS levy upon the Manzers' principal residence, as required by 26 U.S.C.

¹The Honorable Joseph F. Bataillon, United States District Judge for the District of Nebraska.

§ 6334(e)(1), because the Manzlers were indebted to the United States for \$37,770.02 in unpaid income taxes, unemployment taxes, penalties, and interest. Following a hearing, the District Court approved the levy, and the government levied on the Manzlers' residence and sold the property to a third party in July 2003.

Initially, we conclude that the sale did not moot this appeal, because the 180-day redemption period has not yet run. See 26 U.S.C. § 6337(b)(1). Upon de novo review, we also find that the District Court correctly approved the IRS levy. The Manzlers had the burden of proving that the IRS assessments were incorrect, that the tax liabilities were not owed, or that there were other means of collecting those liabilities, cf. Page v. Comm'r, 823 F.2d 1263, 1272 (8th Cir. 1987), cert. denied, 484 U.S. 1043 (1988), and having received adequate procedural due process, see Post v. Harper, 980 F.2d 491, 493 (8th Cir. 1992), they failed to make such a showing. Accordingly, we affirm. See 8th Cir. R. 47B.
